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Of Corrections, and Brian Sandoval*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HOWARD ACKERMAN,

Plaintiff,

v.

STATE OF NEVADA DEPARTMENT OF
CORRECTIONS, et al.

Defendants.

Case No. 2:14-cv-00019-GMN-PAL

**DEFENDANTS' UNOPPOSED MOTION FOR
ENLARGEMENT OF TIME TO FILE JOINT
STATUS REPORT**

Defendants, Catherine Cortez Masto, Gregory Cox, Ross Miller, Nevada Department of Corrections, and Brian Sandoval, by and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Micheline N. Fairbank, Senior Deputy Attorney General, hereby move for an enlargement of time to submit a Joint Status Report pursuant to Court Order (#25)¹. This Motion is made pursuant to Fed. R. Civ. P. 6(b)(1)(B) and supported by the following memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND FACTUAL SUMMARY

On July 10, 2015, this Court issued an order requiring the parties to submit a Joint Status Report notifying the Court of the status of this matter. (#25) As there has been no

¹ This number refers to the Court's docket number.

1 initiation of any prosecution by Plaintiff in this action since Plaintiff submitted his Notice to
 2 Proceed Pro Se (#24), Defense counsel anticipated that Plaintiff would initiate contact with
 3 Defendants upon receipt of the Court's Order (#25) prior to the July 20, 2015, deadline.
 4 Additionally, counsel for Defendants was absent from her office on July 14th, 16th-20th. Upon
 5 counsel's return, there was no correspondence or communication from Plaintiff regarding this
 6 Court's Order (#25). As such, on July 22, 2015, counsel for Defendants' was able to have a
 7 telephone conference with Plaintiff regarding this Court's Order. During that phone
 8 conference, Plaintiff expressed an interest in engaging in informal settlement discussions.
 9 Based upon that interest, counsel for Defendants indicated that informal settlement
 10 discussions could take place. Plaintiff requested that the parties seek a sixty day
 11 enlargement of time to file a Joint Status Report where the parties could then inform the Court
 12 whether those communications were successful.

13 Accordingly, Defendants herby move the Court for a sixty-day enlargement of time to
 14 submit a Joint Status Report.

15 **II. DISCUSSION**

16 Pursuant to Fed. R. Civ. P. 6(b)(1)(B), the Court may extend the time upon which an
 17 act must be done "on motion made after the time has expired if the party failed to act because
 18 of excusable neglect." Here, Defendants assert that due to the inadvertence and oversight,
 19 the deadlines set by the Court in its Order were inadvertently missed due to travel out of the
 20 office for other matters; accordingly, the deadline for the Acceptance of Service passed
 21 without Defendants taking appropriate action.

22 The United States Supreme Court has interpreted the term excusable neglect under
 23 the rules governing bankruptcy proceedings to "encompass both simple, faultless omissions
 24 to act and, more commonly, omissions caused by carelessness." *Pioneer Inv. Services Co. v.*
 25 *Brunswick Associates Ltd. Partnership*, 507 U.S. 380, 388 (1993). In *Committee for Idaho's*
 26 *High Desert, Inc. v. Yost*, 92 F.3d 814 (9th Cir. 1996), the Ninth Circuit extended the *Pioneer*,
 27 analysis of excusable neglect to Fed. R. Civ. P. 6(b).

28 Here, the Court issued its Order directing the parties to submit a Joint Status Report on

July 10, 2015 (#25). Plaintiff represents that he did not receive a copy of this Court's Order. Counsel for Defendants was absent from her office three out of the six business days which the parties had to meet and confer and has been engaged in trial preparations for a matter commencing on July 23, 2015. As Plaintiff did not initiate contact, Defendants' then sought to contact and communicate with Plaintiff. However, due to inadvertence and excusable neglect, these matters were not resolved prior to the July 20, 2015, deadline for filing the Joint Status Report.


However, the parties have conferred and have agreed to initiate informal settlement communications. And pursuant to Plaintiff's request, Defendants hereby seek a sixty day enlargement of time to permit the parties to engage in these informal communications and then file a Joint Status Report identifying whether such communications were effective or whether the parties are prepared to proceed with the action.

III. CONCLUSION

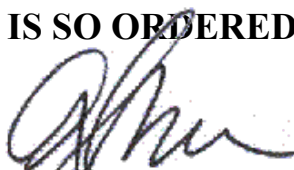
Based upon the foregoing, Defendants' respectfully request a sixty day enlargement of time, up to and including, **September 18, 2015**, to file the Joint Status Report.

DATED this 22nd day of July, 2014.

ADAM PAUL LAXALT
Attorney General

By: 
MICHELINE N. FAIRBANK
Senior Deputy Attorney General
Bureau of Litigation
Public Safety Division
Attorney for Defendants

IT IS SO ORDERED.

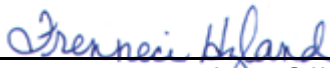

Gloria M. Navarro, Chief Judge
United States District Court

DATED: 07/30/2015.

CERTIFICATE OF SERVICE

I certify I am an employee of the Office of the Attorney General, State of Nevada, and that on this 22nd day of July, 2015, I caused to be deposited for mailing a copy of the foregoing **DEFENDANTS' UNOPPOSED MOTION FOR ENLARGEMENT OF TIME TO FILE JOINT STATUS REPORT**, addressed as follows:

Howard Ackerman
7500 W. Lake Mead #260
Las Vegas, NV 89128


An Employee of the Office of
The Attorney General